

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

DEANDRE OWENS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No.
	)	
CITY OF CHICAGO, A MUNICIPAL	)	
CORPORATION, CITY OF CHICAGO	)	
POLICE OFFICERS MCCRAY (#18508),	)	
KALAFUT (#16348), MUNIZ (#1479),	)	
HERLEHY (#18364), PRATSCHER (#4190),	)	
ROSEN (#11430) and AS-YET	)	
UNKNOWN CHICAGO POLICE OFFICERS.	)	
	)	
Defendants.	)	
	)	JURY TRIAL DEMANDED

**COMPLAINT**

**NOW COMES** the Plaintiff, DEANDRE OWENS, by and through his attorneys, LAW OFFICE OF MICHAEL CHERONIS and GRUSZECZKI & SMITH LAW LLP, and complains of Defendants City of Chicago, Chicago Police Officers MCCRAY (#18508), KALAFUT (#16348), MUNIZ (#1479), HERLEHY (#18364), PRATSCHER (#4190), ROSEN(#11430) and other yet unknown Chicago Police Officers (collectively “Defendant Officers”), and states as follows:

**Introduction**

1. This action is brought pursuant to 42 U.S.C. 1983 to redress the deprivation under color of law of Plaintiff’s rights as secured by the United States Constitution.
2. Plaintiff was arrested by officers of the Chicago Police Department on March 18, 2015, pursuant to an investigative alert to arrest that stemmed from a narcotics

investigation for which Mr. Owens had already been arrested, charged, prosecuted, and sentenced. The same investigative alert had never been cleared from the police's database.

3. Plaintiff was unlawfully detained in custody for fifteen (15) days until his case was dismissed by the Cook County State's Attorney's Office.

### **Jurisdiction and Venue**

4. This Court has jurisdiction over Plaintiff's federal claims pursuant to 28 U.S.C. §§ 1331 and 1343(a), the Constitution of the United States, and this Court's supplemental jurisdiction powers.
5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), in that the claims arose in this district as alleged below.

### **Parties**

6. Plaintiff is a resident of Chicago, Illinois, within the Northern District of Illinois, Eastern Division.
7. Defendant City of Chicago is a municipal corporation within the Northern District of Illinois.
8. At all times material to this complaint, the Defendant Officers were acting under color of state law, ordinance, and/or regulation, statutes, custom, and usage of City of Chicago.

**Facts**

9. On or about December 3, 2013, Plaintiff delivered approximately 4 tinfoil packets of Heroin to an undercover Defendant Officer HERLEHY (#18364) working in Unit 189, Narcotics Division.
10. On or about December 3, 2013, Defendant was detained by unknown Chicago Police Officers after the delivery of Heroin. Plaintiff was not arrested at that time. These Officers created and inventoried contact card number 10544349 for Plaintiff under record division (or incident) number RD HW556718.
11. On information and belief, between December 3, 2013 and July 21, 2014 an investigative alert for stop order number 299982130 under record division (or incident) number HW556718 was issued by an unknown Chicago Police Officer assigned to Unit 189, Narcotics Division.
12. On or about July 21, 2014 Defendant-Officers PRATSCHER (#4190) and ROSEN (#11430) arrested Plaintiff under investigative alert number 299982130 and record division (or incident) number HW556718. A criminal complaint for delivery of heroin was signed by Defendant-Officer HERLEHY (#18364) and filed in the Circuit Court of Cook County on July 22, 2014.
13. Despite this arrest, investigative alert number 299982130 remained in the Chicago Police Department's computer database.
14. Mr. Owens was charged with Manufacture/Delivery of Heroin under 720 ILCS 570/401 (D)(I) and 720 ILCS-570/407 (B)(2) in Cook County Case number 14CR0486002.
15. On August 12, 2014, Plaintiff pleaded guilty to the charge of Manufacture/Delivery of Heroin under 720 ILCS 570/401 (D)(I) and was sentenced to three (3) years in the

Illinois Department of Corrections (“IDOC”) with the recommendation of Impact Incarceration.

16. On August 12, 2014, the Honorable Judge Kazmierski quashed and recalled all warrants against Mr. Owens.
17. On January 31, 2015, Plaintiff paroled out of the Illinois Department of Corrections.
18. On or about March 18, 2015, Plaintiff was lawfully in public near the address of 1547 S. Keeler Avenue, Chicago, IL.
19. Defendant-Officers MCCRAY (#18508) and KALAFUT (#16348) were on duty as a police officers assigned in the area.
20. Defendant-Officers MCCRAY (#18508) and KALAFUT (#16348) conducted a stop of Plaintiff.
21. Plaintiff had not violated any city, state or federal law. Defendant-Officers did not have any reason to believe that Plaintiff had violated, or was about to violate, any city, state or federal law.
22. Defendant-Officers did not have an arrest warrant, probable cause, reasonable suspicion, consent, or any other lawful basis to stop, detain, or search Plaintiff.
23. During this stop, a name check of Plaintiff revealed investigative alert number 299982130 with probable cause to arrest under record division (or incident) number HW556718. Defendant-Officers searched, handcuffed, and arrested Mr. Owens.
24. Mr. Owens was taken to the police station, fingerprinted, and charged under record division (or incident) number HW556718.
25. Defendant-Officer Sergeant MUNIZ (#1479) approved probable cause to arrest.

26. A criminal complaint for preliminary examination against Plaintiff for delivery of heroin was again signed by Defendant- Officer HERELEHY (#18364) was filed in the Circuit Court of Cook County on March 19, 2015.
27. The substance of the complaints filed against Plaintiff on July 22, 2014 and March 19, 2015 are identical.
28. The plaintiff was held in the Cook County Department of Corrections until April 1, 2015.
29. On April 1, 2015, the Cook County State's Attorney's Office dismissed the charges against Mr. Owens.
30. On or about April 6, 2015, as yet unknown City of Chicago Police officers stopped the plaintiff near the area of 19<sup>th</sup> and Pulaski, Chicago, IL.
31. Plaintiff complied.
32. Plaintiff had not violated any city, state or federal law.
33. Defendant-Officers did not have any reason to believe that Plaintiff had violated, or was about to violate, any city, state or federal law.
34. Defendant-Officers did not have an arrest warrant, probable cause, reasonable suspicion, consent, or any other lawful basis to stop, detain, or search Plaintiff.
35. The plaintiff was held in the City of Chicago 10<sup>th</sup> District Police station until on or about April 7, 2015.
36. The plaintiff was released without charging.
37. As a direct and proximate result of the acts of the Defendants described above, Plaintiff suffered damages including loss of physical liberty, and emotional distress.

**COUNT I**  
**(42 U.S.C. § 1983 – Unreasonable Seizure)**

- 38. Each Paragraph of this Complaint is incorporated herein.
- 39. The seizure of Plaintiff without reasonable suspicion or any other legal justification violated his Fourth Amendment right, as guaranteed by the Fourteenth Amendment, to be free from unreasonable seizures.

**COUNT II**  
**(42 U.S.C. § 1983 – Unreasonable Search of Person)**

- 40. Each Paragraph of this Complaint is incorporated herein.
- 41. Searching Plaintiff without probable cause or any other legal justification violated his Fourth Amendment right, as guaranteed by the Fourteenth Amendment, to be free from unreasonable searches

**COUNT III — State Law Claim**  
**False Arrest and False Imprisonment**

- 42. Each Paragraph of this Complaint is incorporated herein.
- 43. Plaintiff was imprisoned by the Defendant Officers, and thereby had his liberty to move about unlawfully restrained, despite the Defendant Officers' knowledge that there was no probable cause for imprisonment.
- 44. As a result of Defendant Officers' misconduct described in this Count, Plaintiff has suffered injury, including emotional harm.

**COUNT IV — State Law Claim  
Malicious Prosecution**

- 45. Each Paragraph of this Complaint is incorporated herein.
- 46. In the manner described above, the Defendant Officers commenced, caused to be commenced, and continued a criminal proceeding against Plaintiff for which Defendants knew or should have known there was no probable cause.
- 47. The criminal proceeding terminated in Plaintiff's favor in a manner indicative that he had already served his sentence.
- 48. As a result of Defendant Officers' misconduct described in this Count, Plaintiff has suffered injury, including emotional harm.

**COUNT V — State Law Claim  
Negligent Infliction of Emotional Distress**

- 49. Each Paragraph of this Complaint is incorporated herein.
- 50. The actions, omissions, and conduct of the Defendant-Officers as set forth above were negligent.
- 51. The Defendant-Officers have a duty to the Plaintiff to update the City of Chicago's records and investigative alerts accurately.
- 52. The records of the Chicago Police were not updated accurately.
- 53. As a result of Defendant Officers' misconduct described in this Count, Plaintiff has suffered injury, including emotional harm.

**COUNT VI**  
**(Indemnification Claim pursuant to 745 ILCS 10/9-102: City of Chicago)**

54. Each Paragraph of this Complaint is incorporated herein.
55. Pursuant to the Illinois Tort Immunity Act, 745 ILCS 10/9-102, Defendant City of Chicago is liable for any judgments for compensatory damages against the Defendant- Officers in this case arising from their actions.

WHEREFORE, Plaintiff, DEANDRE OWENS respectfully requests that this Court enter a judgment in his favor and against Defendants, CITY OF CHICAGO, CITY OF CHICAGO OFFICERS MCCRAY (#18508), KALAFUT (#16348), MUNIZ (#1479), HERLEHY (#18364), PRATSCHER (#4190), ROSEN (#11430), and as-yet unknown City of Chicago Police Officers awarding compensatory damages, costs, and attorneys' fees, along with punitive damages against each of the individual Defendants in their individual capacities, as well as any other relief this Court deems appropriate.



**JURY DEMAND**

Plaintiff, DEANDRE OWENS hereby respectfully request a trial by jury pursuant to Federal Rules of Civil Procedure 38(b) on all issues so triable.

Respectfully submitted,

By: /s/ Michael Gruszczycki  
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